

IN THE MATTER OF:)
)
Ward Transformer Superfund Site)
Raleigh, Wake County, North Carolina)
)
Domtar Paper Company LLC)
SETTLING PARTY)
_____)

SETTLEMENT AGREEMENT

U.S. EPA Region 4
CERCLA Docket No.
CERCLA-04-2017-3751

PROCEEDING UNDER
SECTION 122(h)(1) OF CERCLA,
42 U.S.C. § 9622(h)(1)



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I. JURISDICTION

1. This Settlement Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders) and redelegated from the Regional Administrator through the Director, Superfund Division, through the Deputy Director, Superfund Division, to the Chief, Superfund Enforcement and Community Engagement Branch by EPA Regional Delegation No. R-14-14-D. This Settlement Agreement is also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States, which authority, in the circumstances of this settlement, has been delegated to the Assistant Attorney General for the Environment and Natural Resources Division.

2. This Settlement Agreement is made and entered into by EPA and Domtar Paper Company LLC ("Settling Party"). Settling Party consents to and will not contest the authority of the United States to enter into this Settlement Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Settlement Agreement concerns the Ward Transformer Superfund Site ("Site") located in Raleigh, North Carolina. EPA alleges that the Site is a facility as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and will undertake additional response actions in the future. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List ("NPL"), set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on April 30, 2003, 68 Fed. Reg. 23,077.

5. In response to a release or a substantial threat of a release of a hazardous substance at or from the Site, in April 2003, EPA commenced a Remedial Investigation and Feasibility Study ("RI/FS") for the Site pursuant to 40 C.F.R. § 300.430.

6. On September 16, 2005, EPA Region 4 signed an Administrative Settlement Agreement and Order on Consent with potentially responsible parties to perform a time-critical removal action at the Ward Transformer facility and adjacent parcels (now known as Operable Unit 2 ("OU2")). The removal action was completed August 2015.

7. EPA completed a Revised Remedial Investigation and Risk Assessment Report in September 2004, and a Remedial Investigation Report for Operable Unit 1 ("OU1"), Groundwater and Downstream Reaches, in July 2007, and EPA completed a Feasibility Study Report for Operable Unit 1, Downstream Reaches, Final, in July 2007.

8. The decision by EPA on the remedial action to be implemented at OU1 of the Site is embodied in a Record of Decision for OU1 ("OU1 ROD"), executed on September 29, 2008, on which the State has given its concurrence. The ROD includes a responsiveness summary to

the public comments. Notice of the final plan was published in accordance with Section 117(b) of CERCLA, 42 U.S.C. § 9617(b).

9. On January 9, 2014, EPA Region 4 signed an Administrative Settlement Agreement and Order on Consent ("OU2 RI/FS AOC") with potentially responsible parties to perform, and with certain federal agencies, including the United States Department of the Army, United States Department of the Navy, United States Department of the Air Force, and Tennessee Valley Authority, to partially fund, a supplemental remedial investigation/focused feasibility study ("RI/FS") on OU2. Potentially responsible parties are performing the RI/FS for OU2. EPA anticipates publishing a Record of Decision for OU2 ("OU2 ROD") after the completion of the Remedial Investigation and Feasibility Study. EPA will perform the remedy for OU2 set forth in the OU2 ROD.

10. In performing response action at the Site, EPA has incurred response costs and will incur additional response costs in the future.

11. EPA alleges that Settling Party is a responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for response costs incurred and to be incurred at the Site.

12. EPA and Settling Party recognize that this Settlement Agreement has been negotiated in good faith and that this Settlement Agreement is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by Settling Party in accordance with this Settlement Agreement do not constitute an admission of any liability by Settling Party. Settling Party does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the facts or allegations contained in this Section.

III. PARTIES BOUND

13. This Settlement Agreement shall be binding upon EPA and upon Settling Party and its successors and assigns. Any change in ownership or corporate or other legal status of Settling Party, including but not limited to any transfer of assets or real or personal property, shall in no way alter Settling Party's responsibilities under this Settlement Agreement. Each signatory to this Settlement Agreement certifies that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to bind legally the party represented by him or her.

IV. STATEMENT OF PURPOSE

14. By entering into this Settlement Agreement, the mutual objective of the Parties is to avoid difficult and prolonged litigation by allowing Settling Party to make a cash payment, which includes a premium, to resolve its alleged civil liability under Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), with regard to the Site as provided in the Covenants by EPA in Section VIII, subject to the Reservations of Rights by EPA in Section IX.

V. DEFINITIONS

15. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under

CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or its appendices, the following definitions shall apply:

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

“Certification of RA Completion for OU1” shall mean EPA’s determination, pursuant to Section V, Task II, ¶ D.1 of the Statement of Work for the RD/RA CD, attached to the RD/RA CD as Appendix G, that the remedial action for OU1 has been completed.

“Certification of RA Completion for OU2” shall mean EPA’s determination that the Remedial Action (“RA”) for OU2 has been completed, in the event that EPA selects an RA for OU2.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean the effective date of this Settlement Agreement as provided by Section XVI.

“EPA” shall mean the U.S. Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“OU1 ROD” shall mean the EPA Record of Decision (“ROD”) relating to Operable Unit 1 (“OU1”) at the Site signed on September 29, 2008, by the Regional Administrator, EPA Region 4, or his/her delegate, and all attachments thereto.

“OU2 ROD” shall mean an EPA Record of Decision (“ROD”) selecting a remedial action for Operable Unit 2 (“OU2”) at the Site signed by the Regional Administrator, EPA Region 4, or his/her delegate, and all attachments thereto, if any.

“Paragraph” shall mean a portion of this Settlement Agreement identified by an Arabic numeral or a lower case letter.

“Parties” shall mean EPA and Settling Party.

“RD/RA CD” shall mean the Remedial Design/Remedial Action Consent Decree lodged on September 22, 2016 in the United States District Court for the Eastern District of North Carolina in *United States of America v. North Georgia Electric Membership Corporation, et al.*, 5:16-cv-820.

“Remedial Action” (“RA”) shall mean the remedial action selected in the Record of Decision for an operable unit of the Site.

“Section” shall mean a portion of this Settlement Agreement identified by a Roman numeral.

“Settlement Agreement” shall mean this Settlement Agreement and any attached appendices. In the event of conflict between this Settlement Agreement and any appendix, the Settlement Agreement shall control.

“Settling Party” shall mean Domtar Paper Company LLC.

“Site” shall mean the Ward Transformer Superfund Site located in Raleigh, Wake County, North Carolina. The Site consists of two operable units (OU1 and OU2) that include the Ward Transformer facility, certain parcels adjacent to the facility, nearby drainage pathways, and areas downgradient from the Ward Transformer facility as described in the OU1 ROD, and encompasses the areal extent of the contamination therefrom in the surface and subsurface sediments, soils, and waters. The Site is generally depicted on the map attached as Appendix A.

“State” shall mean the State of North Carolina.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

“Ward Transformer Special Account” shall mean the special account, within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

VI. PAYMENT OF RESPONSE COSTS

16. Payment by Settling Party for Response Costs. Within 30 days after the Effective Date, Settling Party shall pay to EPA \$610,000.

17. Settling Party shall make payment to EPA by Fedwire Electronic Funds (EFT) Transfer to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read “D 68010727
Environmental Protection Agency”

Such payment shall reference Site/Spill ID Number A4S4 and the EPA docket number for this action.

For online payment:

Settling Party shall make payment at <https://www.pay.gov> to the U.S. EPA account in accordance with instructions to be provided to Settling Party by EPA in accordance with instructions to be provided to Settling Party by EPA.

18. Deposit of Payment. The total amount to be paid pursuant to Paragraph 16 shall be deposited by EPA in the Ward Transformer Superfund Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

19. Notice of Payment. At the time of payment, Settling Party shall send notice that payment has been made to EPA in accordance with Section XIII (Notices and Submissions) and to the EPA Cincinnati Finance Center by email or by regular mail at:

Email: cinwd_acctsreceivable@epa.gov

Regular mail: EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

Such notice shall reference Site/Spill ID Number A4S4 and EPA docket number for this action.

VII. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT

20. Interest on Late Payments. If Settling Party fails to make any payment required by Paragraph 16 (Payment by Settling Party for Response Costs) by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

21. Stipulated Penalty.

a. If any amounts due to EPA under Paragraph 16 (Payment by Settling Party for Response Costs) are not paid by the required date, Settling Party shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 20 (Interest on Late Payments), \$1000 per violation per day that such payment is late.

b. All penalties accruing under this Section shall be due and payable to EPA within 30 days after Settling Party's receipt from EPA of a demand for payment of the penalties. Settling Party shall make all payments required by this Section to EPA by Fedwire EFT to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

Each such payment shall reference "stipulated penalties," Site/Spill ID Number A4S4, and the EPA docket number for this action.

c. At the time of payment, Settling Party shall send notice that payment has been made as provided in Paragraph 19 (Notice of Payment).

d. Penalties shall accrue as provided above regardless of whether EPA has notified Settling Party of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

22. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to the United States by virtue of Settling Party's failure to comply with the requirements of this Settlement Agreement, Settling Party shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3), if it fails or refuses to comply with any term or condition of this Settlement Agreement. If the United States brings an action to enforce this Settlement Agreement, Settling Party shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

23. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Settlement Agreement. Settling Party's payment of stipulated penalties shall not excuse Settling Party from payment as required by Section VI or from performance of any other requirements of this Settlement Agreement.

VIII. COVENANTS BY EPA

24. Covenants for Settling Party by EPA. Except as specifically provided in Section IX (Reservations of Rights by EPA), EPA covenants not to sue or to take administrative action against Settling Party pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), with regard to the Site. With respect to present and future liability, these covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by Settling Party of its obligations under this Settlement Agreement. These covenants extend only to Settling Party and do not extend to any other person.

IX. RESERVATIONS OF RIGHTS BY EPA

25. United States' Pre-Certification Reservations for OU1. Notwithstanding any other provision of this Settlement Agreement, the United States reserves, and this Settlement Agreement is without prejudice to, the right to institute judicial proceedings and/or to issue an administrative order seeking to compel Settling Party to perform response actions relating to OU1 and/or to pay the United States for additional costs of response if, (a) prior to Certification of RA Completion for OU1, (1) conditions at the Site, previously unknown to EPA, are discovered, or (2) information, previously unknown to EPA, is received, in whole or in part, and (b) EPA determines that these previously unknown conditions or information together with any other relevant information indicates that the RA for OU1 is not protective of human health or the environment. For purposes of this paragraph, the information and the conditions known to EPA will include only that information and those conditions known to EPA as of November 24, 2015, the date certain potentially responsible parties submitted the "Annual Status Update, Ward Transformer OU1 Superfund Site, Raleigh, North Carolina" to EPA.

26. United States' Post-Certification Reservations for OU1. Notwithstanding any other provision of this Settlement Agreement, the United States reserves, and this Settlement Agreement is without prejudice to, the right to institute judicial proceedings and/or to issue an administrative order seeking to compel Settling Party to perform response actions relating to OU1 and/or to pay the United States for additional costs of response if, (a) subsequent to Certification of RA Completion for OU1, (1) conditions at the Site, previously unknown to EPA, are discovered, or (2) information, previously unknown to EPA, is received, in whole or in part, and (b) EPA determines that these previously unknown conditions or this information together with other relevant information indicate that the RA for OU1 is not protective of human health or the environment. For purposes of this paragraph, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of Certification of RA Completion for OU1 and set forth in the OU1 ROD, the administrative record supporting the OU1 ROD, the post-OU1 ROD administrative record, or in any information received by EPA pursuant to the requirements of the RD/RA CD prior to Certification of RA Completion for OU1.

27. United States' Pre-Certification Reservations for OU2. Notwithstanding any other provision of this Settlement Agreement, in the event that EPA selects an RA for OU2, the United States reserves, and this Settlement Agreement is without prejudice to, the right to institute judicial proceedings and/or to issue an administrative order seeking to compel Settling Party to perform response actions relating to OU2 and/or to pay the United States for additional costs of response if, (a) prior to Certification of RA Completion for OU2, (1) conditions at the Site, previously unknown to EPA, are discovered, or (2) information, previously unknown to EPA, is received, in whole or in part, and (b) EPA determines that these previously unknown conditions or information together with any other relevant information indicates that the RA for OU2 is not protective of human health or the environment. For purposes of this paragraph, the information and the conditions known to EPA will include only that information and those conditions known to EPA as of the date the OU2 ROD is signed and set forth in the OU2 ROD and the administrative record supporting the OU2 ROD.

28. United States' Post-Certification Reservations for OU2. Notwithstanding any other provision of this Settlement Agreement, in the event that EPA selects an RA for OU2, the United States reserves, and this Settlement Agreement is without prejudice to, the right to institute judicial proceedings and/or to issue an administrative order seeking to compel Settling Party to perform response actions relating to OU2 and/or to pay the United States for additional costs of response if, (a) subsequent to Certification of RA Completion for OU2, (1) conditions at the Site, previously unknown to EPA, are discovered, or (2) information, previously unknown to EPA, is received, in whole or in part, and (b) EPA determines that these previously unknown conditions or this information together with other relevant information indicate that the RA for OU2 is not protective of human health or the environment. For purposes of this paragraph, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of Certification of RA Completion for OU2 and set forth in the OU2 ROD, the administrative record supporting the OU2 ROD, or the post-OU2 ROD administrative record.

29. General Reservations of Rights. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Party with respect to all matters not expressly included within Paragraph 24 (Covenants for Settling Party by EPA). Notwithstanding any other provision of this Settlement Agreement, EPA reserves all rights against Settling Party with respect to:

- a. liability for failure of Settling Party to meet a requirement of this Settlement Agreement;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. liability based on the ownership or operation of the Site by Settling Party when such ownership or operation commences after signature of this Settlement Agreement by Settling Party;
- e. liability based on Settling Party's transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Settlement Agreement by Settling Party; and
- f. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site; and

30. Nothing in this Settlement Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, that EPA may have against any person, firm, corporation or other entity not a signatory to this Settlement Agreement.

X. COVENANTS BY SETTLING PARTY

31. Covenants by Settling Party. Settling Party covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Site and this Settlement Agreement, including but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; or

c. any claim pursuant to Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law relating to the Site.

32. Except as provided in Paragraph 34 (claims against other PRPs) and Paragraph 39 (res judicata and other defenses), the covenants in this Section shall not apply in the event EPA brings a cause of action or issues an order pursuant to any of the reservations in Section IX (Reservations of Rights by EPA), other than in Paragraph 29.a (liability for failure to meet a requirement of the Settlement Agreement) or 29.b (criminal liability), but only to the extent that Settling Party's claims arise from the same response action or response costs that EPA is seeking pursuant to the applicable reservation.

33. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

34. Settling Party agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that they may have for response costs relating to the Site against any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that Settling Party may have against any person if such person asserts a claim or cause of action relating to the Site against such Settling Party.

XI. EFFECT OF SETTLEMENT/CONTRIBUTION

35. Except as provided in Paragraph 34 (claims against other PRPs), nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section X (Covenants by Settling Party), each of the Parties reserves any and all rights (including, but not limited to, under Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42

U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

36. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved liability within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or by any other person, except for the State; provided, however, that if EPA exercises rights under the reservations in Section IX (Reservations of Rights by EPA), other than in Paragraphs 29.a (liability for failure to meet a requirement of the Settlement Agreement) or 29.b (criminal liability), the “matters addressed” in this Settlement Agreement will no longer include those response costs or response actions that are within the scope of the exercised reservation.

37. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

38. Settling Party shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Settling Party also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within 10 days after service of the complaint or claim upon it. In addition, Settling Party shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

39. In any subsequent administrative or judicial proceeding initiated by EPA, or the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Party shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by EPA, or the United States on behalf of EPA, in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by EPA set forth in Section VIII.

40. Effective upon signature of this Settlement Agreement by Settling Party, Settling Party agrees that the time period commencing on the date of its signature and ending on the date EPA receives from Settling Party the payment(s) required by Section VI (Payment of Response Costs) and, if any, Section VII (Failure to Comply with Settlement Agreement), shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the “matters addressed” as defined in Paragraph 36, and that, in any action brought by the United States related to the “matters addressed,”

Settling Party will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Settling Party that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing 90 days after the date such notice is sent by EPA.

XII. RETENTION OF RECORDS

41. Until 5 years after the Effective Date, each Settling Party shall preserve and retain all non-identical copies of records, reports, documents, and other information (including records, reports, documents and other information in electronic form) (hereinafter referred to as "Records") now in its possession or control, or that come into its possession or control, that relate in any manner to its liability under CERCLA with respect to the Site, in addition, all Records that relate to the liability of any other person under CERCLA with respect to the Site. Each of these requirements shall apply regardless of any corporate retention policy to the contrary.

42. At the conclusion of the document retention period, Settling Party shall notify EPA at least 90 days prior to the destruction of any such Records, and, upon request by EPA, except as provided in Paragraph 43 (Privileged and Protected Claims), Settling Party shall deliver such Records to EPA.

43. Privileged and Protected Claims.

a. Settling Party may assert that all or part of a Record is privileged or protected as provided under federal law, provided they comply with Paragraph 43.b, and except as provided in Paragraph 43.c.

b. If Settling Party asserts a claim of privilege or protection, they shall provide EPA with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, each addressee, and of each recipient; a description of the Record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Settling Party shall provide the record to EPA in redacted form to mask the privilege or protection only. Settling Party shall retain all Records that they claim to be privileged or protected until EPA has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in the Settling Party's favor.

c. Settling Party may make no claim of privilege or protection regarding:

(1) any data regarding the Site, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the Site; or

(2) the portion of any Record that Settling Party is required to create or generate pursuant to this Settlement Agreement.

44. **Business Confidential Claims.** Settling Party may assert that all or part of a Record submitted to EPA under this Section or Section XII (Retention of Records) is business

confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Records that Settling Party claims to be confidential business information will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Settling Party that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such Records without further notice to Settling Party.

45. Settling Party certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any Records relating to its potential liability regarding the Site, since notification of potential liability by the United States or the State and that it has fully complied with any and all EPA and State requests for information regarding the Site pursuant to Sections 104(e) and 122(e)(3)(B) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e)(3)(B), Section 3007 of RCRA, 42 U.S.C. § 6927, and state law.

XIII. NOTICES AND SUBMISSIONS

46. Whenever, under the terms of this Settlement Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Except as otherwise provided, notice to a Party by email (if that option is provided below) or by regular mail in accordance with this Section satisfies any notice requirement of this Settlement Agreement regarding such Party.

As to EPA:

C. Jade Rutland, Associate Regional Counsel
61 Forsyth Street, SW
Atlanta, GA 30331
Rutland.jade@epa.gov

Paula Painter, Program Analyst
61 Forsyth Street, Atlanta, GA 30303
painter.paula@epa.gov

As to Settling Party:

Ania Brzezinski
Domtar Paper Company LLC
395, de Maisonneuve west
Montreal, Quebec
Canada H3A 1L6
ania.brzezinski@domtar.com

Dennis Reis
Briggs and Morgan, P.A.
2200 IDS Center
80 S. 8th St.
Minneapolis, MN 55402
dreis@briggs.com

XIV. INTEGRATION/APPENDIX

47. This Settlement Agreement and its appendices constitute the final, complete, and exclusive Settlement Agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendix is attached to and incorporated into this Settlement Agreement: "Appendix A" is the map of the Site.

XV. PUBLIC COMMENT

48. This Settlement Agreement shall be subject to a public comment period of at least 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, the United States may modify or withdraw its consent to this Settlement Agreement if comments received disclose facts or considerations that indicate that this Settlement Agreement is inappropriate, improper, or inadequate.

XVI. EFFECTIVE DATE

49. The effective date of this Settlement Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 48 has closed and that comments received, if any, do not require modification of or withdrawal by the United States from this Settlement Agreement.

IT IS SO AGREED:

U.S. ENVIRONMENTAL PROTECTION AGENCY

6/1/2017
Dated

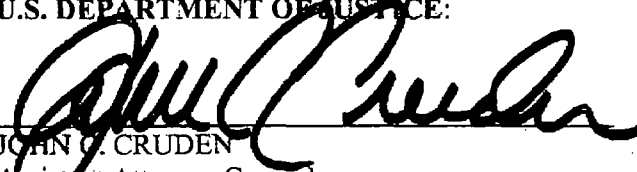



Anita Davis
Chief
Superfund Enforcement and Community
Engagement Branch

Signature Page for Settlement Agreement Regarding Ward Transformer Superfund Site

12/20/16
Dated

U.S. DEPARTMENT OF JUSTICE:

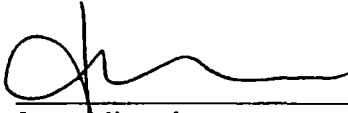

JOHN C. CRUDEN
Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
Washington, D.C. 20530


LESLIE COLEMAN
Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044-7611

Signature Page for Settlement Agreement Regarding Ward Transformer Superfund Site

FOR Domtar Paper Company LLC:

Nov. 21, 2016
Dated



Josee Mireault
Assistant Corporate Secretary